

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 1:01-cr-137 (DCB)

MIMS GRAY

DEFENDANT

ORDER

This cause is before the Court on the defendant Mims Gray's Motion for New Trial **(docket entry 29)**. Having carefully considered the motion, and the government's response, and being fully advised in the premises, the court finds as follows:

On October 30, 2007, this Court held a hearing to determine whether the defendant's supervised release should be revoked for violation of the terms thereof. After hearing the testimony and considering the evidence, the Court revoked the defendant's supervised release and sentenced him to 36 months of imprisonment for the violation. On November 8, 2007, Gray filed the present motion for "new trial."

A motion for new trial following a revocation hearing is not recognized by Federal Rule of Criminal Procedure 33, and is not otherwise available, since a revocation hearing is not an adjudication of rights that would support such a motion. See United States v. Morris, 42 Fed. Appx. 385, 288 n.2 (10th Cir. 2002) (unpublished); United States v. Yancey, 100 F.Supp.2d 378, 380 (E.D. Va. 2000). The defendant's motion shall therefore be denied.

The Court notes that the defendant has the right to appeal from his revocation hearing, which he exercised by filing a notice of appeal on November 13, 2007. Accordingly,

IT IS HEREBY ORDERED that the defendant's Motion for New Trial **(docket entry 29)** is DENIED.

SO ORDERED, this the 6th day of December, 2007.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE